

## REMARKS

### *Summary of Claims Status*

After entry of the foregoing amendment, claims 1-44 will be pending in the application. Claims 1, 12, 23, and 34 are independent claims. The independent claims stand rejected as allegedly being unpatentable in view of U.S. patent application publication no. 2003/0156688 ("McCarty") in view of U.S. patent no. 6,640,474 ("Knoerzer").

### *Examiner Interview Summary*

Applicant gratefully acknowledges the time and attention afforded by Examiner Silbermann during a telephonic interview conducted on March 7, 2006, with inventor David Helmlinger and the undersigned attorney. The teachings of McCarty and Knoerzer were discussed.

Applicant respectfully submitted that neither McCarty nor Knoerzer teaches or suggests a note, let alone a note-waiting indicator that, upon detection of motion, provides a human-perceptible indication that a note is waiting. Specifically, Applicant noted that there is no teaching in McCarty of a note. Further, the trading card disclosed in Knoerzer is an electronic device, and not a "note" as one would ordinarily understand the meaning of the term "note."

The Examiner indicated that the term "note," as interpreted in connection with the Office Action, would include within its scope "any indicia on a substrate that conveys a message or something someone is meant to look at." Applicant suggested that the definition proffered by the Examiner is unreasonably broad, but Applicant and the Examiner were unable to reach agreement as to the scope of the term "note."

Though agreement on specific claim language was not reached, Applicant agreed to consider amending the claims to recite "non-electronic" notes. The Examiner agreed that neither McCarty nor Knoerzer discloses a non-electronic note.

### *Section 112 Rejection*

Claim 52 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to provide proper antecedent basis for the term "note retention member." Applicant has canceled claim 52, thereby rendering the rejection moot.

*Section 102/103 Rejections*

Each of the independent claims recites a controller that, upon receiving a motion-detection signal from a motion sensor, causes a note-waiting indicator to provide a human-perceptible indication that a note is waiting. Applicant respectfully submits that neither McCarty nor Knoerzer teaches or suggests a note, let alone such a controller. For this reason, at least, Applicant traverses the claim rejections.

In order to advance prosecution, however, Applicant has amended the independent claims to recite “non-electronic” notes. Applicant’s specification provides that “notes may be written on pages or scraps of paper, index cards, or so-called ‘sticky notes.’” Thus, the specification provides several examples of non-electronic notes that can be used in conjunction with a system according to the invention.

Applicant respectfully submits that neither McCarty nor Knoerzer teaches or suggests a non-electronic note, let alone a note-waiting indicator that, upon detection of motion, provides a human-perceptible indication that a non-electronic note is waiting. McCarty nowhere teaches or suggests a note of any kind. Further, McCarty nowhere teaches or suggests modifying the system to provide a human-perceptible note-waiting indication.

Knoerzer discloses an electronic trading card “having electroluminescent features” that can be placed in a display stand (*Knoerzer* – col. 2, ll. 14-16). Even to the extent that the trading card of Knoerzer can arguably be considered a “note” (and Applicant contends that it cannot be), the trading card is an electronic device and, therefore, not a “non-electronic note” as recited in Applicant’s claims.

Applicant further respectfully submits that one skilled in the art would not be motivated to modify Knoerzer to work with a non-electronic note. To the contrary, the system of Knoerzer simply would not work with a traditional, non-electronic trading card. Knoerzer *relies* on the fact that the trading card is an electronic device. Only upon insertion of the electronic device is the circuit completed, causing the electroluminescent features to light. Even if a non-electronic trading card could be received into the retainer of Knoerzer, nothing would happen. No note-waiting indication would be provided because a non-electronic trading card would not include the electroluminescent feature, nor could it complete the circuit necessary to provide an audio presentation (*Knoerzer* – col. 2, ll. 26-29).

Accordingly, because neither McCarty nor Knoerzer teaches or suggests a non-electronic note Applicant respectfully submits that all the pending claims are allowable.

Further, neither McCarty nor Knoerzer teaches or suggests a controller, as recited in Applicant's claims, that causes a note-waiting indicator to provide a human-perceptible indication that a non-electronic note is waiting. Though McCarty discloses a speaker, there is simply no teaching of a controller that is adapted to cause such speaker to provide a human-perceptible indication that a note is waiting. With regard to Knoerzer, neither the electroluminescent display nor the speaker provides a human-perceptible indication that a non-electronic note is waiting. To the contrary, the display and speaker are intended to give the trading card "an interactive presentation" (*Knoerzer* – col. 4, ll. 19-20), and not to indicate that a non-electronic note is waiting.

Accordingly, because neither McCarty nor Knoerzer teaches or suggests a controller that causes a note-waiting indicator to provide a human-perceptible indication that a non-electronic note is waiting, Applicant further respectfully submits that all the pending claims are allowable.

With particular regard to claims 1, 12, and 34 neither McCarty nor Knoerzer teaches or suggests a note retention member that is adapted to retain a non-electronic note. McCarty does not teach or suggest a note retention member at all. Knoerzer merely discloses a base for holding an electronic trading card. For this reason as well, Applicant respectfully submits that claims 1, 12, and 34 are allowable.

With particular regard to claim 1, neither McCarty nor Knoerzer teaches or suggests a switch that is actuated by insertion of a non-electronic note into a note retention member. The Office Action recognizes that McCarty does not teach or suggest a switch. To the extent that Knoerzer discloses a switch at all, such switch is not actuated by insertion of a non-electronic-note into a note retention member (or even by insertion of the electronic trading card into the base). For this reason as well, Applicant respectfully submits that claim 1 is allowable.

#### *Conclusion*

For all the foregoing reasons, Applicant respectfully submits that the application is in condition for allowance. Accordingly, Applicant respectfully requests a Notice of Allowance for claims 1-44.

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**PATENT**

Respectfully submitted,



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